

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**DOUGLAS B. STALLEY, on behalf of  
the United States of America**

**PLAINTIFF**

v.

**3:06CV00093-WRW**

**TRIAD HOSPITALS, INC., ET AL.**

**DEFENDANTS**

**ORDER**

Pending is Defendants' Motions to Dismiss (Doc. Nos. 13, 16) and Notice of Related Case (Doc. No. 18). Plaintiff filed this action on behalf of the United States of America seeking to recover monies he claims is owed Medicare under the Medicare Secondary Payer ("MSP") statute.<sup>1</sup> This action is one of many filed by Plaintiff in several jurisdictions,<sup>2</sup> including an action with virtually identical allegations that was dismissed on October 20, 2006, by United States District Judge George Howard.<sup>3</sup>

I quote from Judge Howard's opinion:

Plaintiff seeks to extend the MSP statute beyond that intended by Congress. Plaintiff asserts that somewhere, sometime, somehow, some hospital or hospitals owned by defendants must have caused some injury or illness to one or more Medicare beneficiaries for which Medicare should be reimbursed. Allowing plaintiff to proceed with this action would allow any individual to sue any Medicare provider on the off-chance that some Medicare recipient must have been injured by or harmed and that Medicare

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<sup>1</sup>42 U.S.C. § 1395y(b)(2).

<sup>2</sup>Doc. No. 18-2, ps. 4-9.

<sup>3</sup>*Stalley v. Catholic Health Initiatives*, No. 4:06CV00629-GH, 2006 WL 3091324 (E.D. Ark. October 20, 2006).

is entitled to some as yet undetermined reimbursement. Certainly Congress did not envision such a speculative cause of action.<sup>4</sup>

I agree with Judge Howard - - the MSP statute does not provide for a *qui tam* action. Because Plaintiff has not suffered an injury, he does not have Article III standing. Accordingly, Defendants' Motion to Dismiss is GRANTED.

IT IS SO ORDERED this 14<sup>th</sup> day of November, 2006.

/s/Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE

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<sup>4</sup>*Id.*